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08-25-06

PTO/SB/21 (6-99)

Approved for use through 09/30/2000. OMB 0651-0031
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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Application Number	10/773,951
Filing Date	February 6, 2004
First Named Inventor	David Agus
Group/Art Unit	1636
Examiner Name	Schlapkohl, Walter
Attorney Docket Number	39740-0009

Total Number of Pages in This Submission

ENCLOSURES (check all that apply)

- ☐ Fee Transmittal Form
 - ☐ Fee Attached
- ☐ Response to Final Office Action
 - ☐ After Final
 - ☐ Version With Markings Showing Changes
- ☐ Extension of Time Request
- ☒ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/ Incomplete Application
 - ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Copy of Notice

- ☐ Copy of an Assignment
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition Routing Slip (PTO/SB/69) and Accompanying Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, by Assignee to Exclusion of Inventor Under 37 C.F.R. §3.71 With Revocation of Prior Powers
- ☐ Terminal Disclaimer
- ☐ Small Entity Statement
- ☐ Request for Refund

- ☐ After Allowance Communication to Group
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
- ☐ Proprietary Information
- ☐ Status Letter

☒ **ADDITIONAL ENCLOSURE(S)
(PLEASE IDENTIFY BELOW):**☒ **10 cited references; and
Stamped Return Postcard**

Remarks

**AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT 08-1641 FOR ANY FEES DUE IN
CONNECTION WITH THIS PAPER, REFERENCING ATTORNEY'S DOCKET NO. 39740-0009.****SIGNATURE OF APPLICANT, ATTORNEY OR AGENT**

Firm or Individual name	HELLER EHRMAN LLP	LESLIE A. MOOI (Reg. No. 37,047)
	275 Middlefield Road, Menlo Park, California 94025	Telephone: (650) 324-7000 Facsimile: (650) 324-0638
Signature	<i>Leslie Mooi</i>	
Date	August 23, 2006	Customer Number: 25213

CERTIFICATE OF EXPRESS MAILINGI hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on the date indicated below and addressed to: **MAIL STOP: Amendment, Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450, on this date: August 23, 2006**Express Mail Label **EV 582 632 186 US**

Typed or printed name	Kathleen K. Muto		
Signature	<i>Kathleen K. Muto</i>	Date	August 23, 2006

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop ___, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

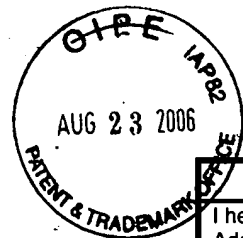
- ☐ This statement qualifies under 37 C.F.R. §1.97, subsection (b) because (check all that apply):
- ☐ (1) It is being filed within 3 months of the application filing date and is other than a continued prosecution application under § 1.53(d)
-- OR --
- ☐ (2) It is being filed within 3 months of entry of a national stage
-- OR --
- ☐ (3) It is being filed before the mail date of the first Office Action on the merits
-- OR --
- ☐ (4) It is being filed before the mailing of a first Office Action after the filing of a request for continued examination under § 1.114.
- ☒ 37 C.F.R. §1.97(c). If this statement is being filed after the latest of: (1) three months beyond the filing date of a national application; (2) three months beyond the date of entry of the national stage as set forth in §1.491 in an international application; or (3) the mailing date of a first Office action on the merits, but before the mailing date of the earlier of a final office action under §1.113 or a notice of allowance under §1.311, then:
- ☐ a certification as specified in §1.97(e) is provided below; **or**
- ☒ a fee of \$180.00 as set forth in §1.17(p) is authorized below, enclosed, or included with the payment of other papers filed together with this statement.
- ☐ 37 C.F.R. §1.97(d). If this statement is being filed after the mailing date of the earlier of a final office action under §1.113 or a notice of allowance under §1.311, but before payment of the issue fee, then:
- A. a certification as specified in §1.97(e) is completed below; and
- B. a petition under 37 C.F.R. §1.97(d) requesting consideration of this statement is submitted herewith; **and**
- C. a fee of \$130.00 as set forth in §1.17(i)(1) is authorized below, enclosed, or included with the payment of other papers filed together with this statement.
- ☒ **Fee Authorization.** The Commissioner is hereby authorized to charge the above-referenced fees of **\$180.00** and charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. 08-1641 (Docket No.: 39740-0009).

Respectfully submitted,

By: Leslie A. Mooi
Leslie A. Mooi (Reg. No. 37,047)

Dated: August 23, 2006

HELLER EHRMAN LLP
275 Middlefield Road
Menlo Park, California 94025-3506
Telephone: (650) 324-7000
Facsimile: (650) 324-0638



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Express Mail Label: EV 582 632 186 US			
Typed or print name	Kathleen K. Muto		
Signature		Date	August 23, 2006

PATENT

Attorney Docket No.: 39740-0009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

Inventor(s): David Agus)	Confirmation No. 8470
)	
Application No.: 10/773,951)	Art Unit: 1636
)	
Filed: February 6, 2004)	Examiner: Schlapkohl, Walter
)	
Title: Gene Expression Markers For Response to)	
EGFR Inhibitor Drugs)	

INFORMATION DISCLOSURE STATEMENT

UNDER 37 C.F.R. §1.97 08/28/2006 EHAILE1 00000042 081641 10773951
01 FC:1006 100.00 DA

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Listed below or on an attached Form PTO-1449 is information known to applicant(s). A copy is provided of each foreign patent, each cited pending unpublished U.S. application, and all additional publications other than U.S. patents and U.S. patent application publications. 37 C.F.R. §§1.97-1.98.

Applicants respectfully request that the listed information be considered by the Examiner and be made of record in the above-identified application. If form PTO-1449 is enclosed, the Examiner is requested to initial and return it in accordance with MPEP §609.

This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in §1.56.



SHEET 1 OF 2

**INFORMATION DISCLOSURE
STATEMENT****PTO-1449**

ATTY. DOCKET NO.

39740-0009

SERIAL NO.

10/773,951

APPLICANT: David Agus

FILING DATE: 02/06/2004

GROUP: 1636

U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	PUBLICATION NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
	2002/0009736	01/24/02	Wang	435	6	
	2003/0073112	04/17/03	Zhang et al.	435	6	
	2003/0104499	06/05/03	Pressman et al.	435	7.23	
	2003/0165952	09/04/03	Linnarsson et al.	435	6	
	2003/0180791	09/25/03	Chinnadurai	435	6	
	2003/0198970	10/23/03	Roberts	435	6	
	2004/0009489	01/15/04	Golub et al.	435	6	
	2004/0133352	07/08/04	Bevilacqua et al.	702	19	
EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
	4,699,877	10/13/87	Cline et al.	435	6	
	5,015,568	05/14/91	Tsujimoto et al.	435	5	
	5,459,251	10/17/95	Tsujimoto et al.	536	23.5	
	RE 35491	04/08/97	Cline et al.	435	6	
	5,858,678	01/12/99	Chinnadurai	435	7.1	
	5,952,179	09/14/99	Chinnadurai	435	6	
	5,985,553	11/16/99	King et al.	435	6	
	6,207,452	03/27/01	Govindaswamy	435	330	
	6,271,002	08/07/01	Linsley et al.	435	91.1	
	6,322,986	11/27/01	Ross	435	6	
	6,414,134	07/02/02	Reed	536	24.5	
	6,582,919	06/24/03	Danenberg	435	6	
	6,602,670	08/05/03	Danenberg	435	6	
	6,618,679	09/09/03	Loehrlein et al.	702	20	
EXAMINER			DATE CONSIDERED			

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

INFORMATION DISCLOSURE STATEMENT PTO-1449			ATTY. DOCKET NO.		SERIAL NO.			
			39740-0009		10/773,951			
			APPLICANT: David Agus					
			FILING DATE: 02/06/2004		GROUP: 1636			
FOREIGN PATENT DOCUMENTS								
Examiner Initials	Ref. No.	Date	Document No.	Name	Class	Subclass	Translation YES NO	
		05/04/88	EP 0 108 564 B1	Cline et al.			N/A	
		11/26/03	EP 1 365 034	Wirtz et al.			X	
		04/12/01	WO 01/25250	Slamon et al.			X	
		01/24/02	WO 2002/006526	Slamon et al.			X	
		07/03/02	WO 02/17852	Warrel et al.			X	
		02/13/03	WO 03/011897	Singer et al.			X	
OTHER DOCUMENTS (including author, title, date, pertinent pages, etc.)								
Examiner Initials	Ref. No.	Title						
		Brabender, Jan, et al.; <i>Epidermal Growth Factor Receptor and HER2-neu mRNA Expression in Non-Small Cell Lung Cancer Is Correlated with Survival</i> , Clinical Cancer Research; Vol. 7, July 2001; pgs. 1850-1855.						
		Ding, Chunming, et al.; <i>A high-throughput gene expression analysis technique using competitive PCR and matrix-assisted laser desorption ionization time-of-flight MS</i> , PNAS, Vol. 100:6; March 18, 2003; pgs. 3059-3064.						
		Cambridge Healthtech Institute Conference Agenda; "ENABLING MOLECULAR PROFILING WITH CELLULAR RESOLUTION: Microgenomics Using Homogeneous Cell Samples"; Dec. 2002; 5 pgs.						
		Yang, Li, et al.; <i>BADGE, BeadsArray for the Detection of Gene Expression, a High-Throughput Diagnostic Bioassay</i> ; Genome Research; Vol. 11; 2001; pgs. 1888-1898.						
EXAMINER				DATE CONSIDERED				

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.